



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 30 2018

OFFICE OF  
SOLID WASTE AND  
EMERGENCY RESPONSE

NOW THE  
OFFICE OF LAND AND  
EMERGENCY MANAGEMENT

The Honorable Richard Blumenthal  
United States Senate  
Washington D.C. 20510

Dear Senator Blumenthal:

Thank you for your letter of August 24, 2017, to the U.S. Environmental Protection Agency, regarding the management of Coal Combustion Residuals (CCR) in Puerto Rico, and recommending that the EPA investigate the impacts of the potential mismanagement of depositing Agremax in Puerto Rico landfills. The agency appreciates your concerns about these issues.

The EPA has been working with the Puerto Rico Government to ensure the proper disposal of solid wastes, including CCR, throughout the island. Although solid waste is primarily a matter of state, or in this case, territorial responsibility, the EPA has actively used its civil and administrative authorities to address solid waste and CCR issues in Puerto Rico. Since 2007, the EPA has taken legal actions to close 12 operating solid waste landfills and require a thirteenth landfill to stop accepting waste. The EPA is continuing to assess landfills and develop legal agreements where appropriate.

In 2015, the EPA issued an Administrative Order on Consent (AOC) under the Clean Water Act (CWA) to address CCR management at the Applied Energy Services Puerto Rico, L.P. (AES) coal-fired power plant in Guayama, Puerto Rico. AES complied and the AOC was terminated in February 2017. In August 2017, the EPA issued AES a Notice of Violation (NOV) under the CWA for non-compliance with the dust control measures and maintenance of storm water runoff control measures as required by the 2015 Multi-Sector General Permit for Stormwater Discharges from Industrial Activity. In response, AES submitted information about the actions taken to address the NOV. Two actions, required by the NOV, are still pending due to the passage of Hurricanes Irma and Maria.

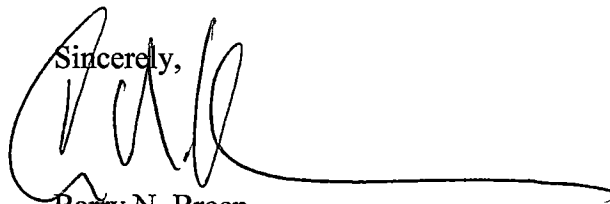
Furthermore, on April 17, 2015, the EPA finalized national regulations to regulate the disposal of CCR as solid waste under subtitle D of the Resource Conservation and Recovery Act (RCRA) titled, *Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals from Electric Utilities*, (80 FR 21302) ("CCR rule"). The CCR rule established national minimum criteria for existing and new CCR landfills, existing and new CCR surface impoundments, and all lateral expansions. The CCR rule contains groundwater monitoring and corrective action requirements to ensure that groundwater contamination at new and existing CCR units will be detected and cleaned up as necessary to protect human health and the environment. Specifically, the rule requires a system of monitoring wells at all new and existing CCR units; procedures for sampling the wells and methods for statistical analysis of the data derived from the well samples to detect the presence of hazardous constituents released from the units; and a phased approach to groundwater monitoring consisting of detection

monitoring and assessment monitoring. These provisions allow for a graduated response over time to the problem of groundwater contamination as the evidence of such contamination increases. The owner or operator of the CCR unit is responsible for installing this groundwater monitoring system and complying with the groundwater monitoring regulations.

In the CCR rule, the EPA also determined that disposal of CCR in a lined Municipal Solid Waste landfill was a safe and proper disposal practice. It is our understanding that the Peñuelas Valley Landfill is a modern landfill that has a liner and leachate collection. In May 2016, the EPA conducted a RCRA inspection that confirmed operational controls were in place for Agremax/ash disposal. The EPA is continuing to work to evaluate and address CCR and solid waste management in Puerto Rico.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Carolyn Levine in the EPA's Office of Congressional and Intergovernmental Relations at [levine.carolyn@epa.gov](mailto:levine.carolyn@epa.gov) or at (202) 564-1859.

Sincerely,

A handwritten signature in black ink, appearing to read 'Barry N. Breen', with a long horizontal flourish extending to the right.

Barry N. Breen

Principal Deputy Assistant Administrator